



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TRG
Docket No: 1163-00
13 December 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 17 October 1996 at age 18. On 18 October 1996 during the moment of truth you admitted to extensive alcohol use, use of LSD on one occasion and use of marijuana on 25 occasions. Based on your admission you were processed for an administrative separation due to erroneous enlistment. In connection with this processing, you elected to waive your procedural rights. On 24 October 1996 the separation authority directed an entry level separation. You were so separated on 29 October 1996. At that time you were not recommended for reenlistment and were assigned an RE-4 reenlistment code.

You state in your application that you lied about your drug use in order to be separated from the Navy. You have submitted character references showing that you have been a good citizen since your separation from the Navy.

The Board was aware that it is well settled in the law that an individual who perpetrates a fraud in order to be discharged should not benefit from that fraud when it is discovered. In addition, there is no evidence to confirm whether you were lying

then or are lying now.

Regulations require the assignment of an RE-4 reenlistment code when an individual is separated by reason of erroneous enlistment due to drug abuse. Since you have been treated no differently than others separated for that reason, the Board could not find an error or injustice in the assignment of the RE-4 reenlistment code.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director